

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
PATRICIA RAO,

Plaintiff,

- against -

NOTICE OF MOTION

08 Civ. 1922 (DAB)

BELLEVUE HOSPITAL, MANHATTAN PARKING
SYSTEMS, LLC, THE CITY OF NEW YORK, and
JOHN/JANE DOES 1-100, XYZ CORPORATIONS
1-100 and ABC ENTITIES 1-100,

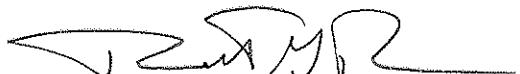
Defendant.

-----x

SIRS:

PLEASE TAKE NOTICE that upon the attached affidavit or affirmation Robert G. Ricco, sworn to or affirmed August 11, 2008 and upon the complaint herein, plaintiff will move this court, Deborah A. Batts, U.S.D.J, presiding in Room 2510, United States Court House, 500 Pearl Street, New York, New York 10007 at 9:00 A.M. on the 15th of September, 2008 or as soon thereafter as counsel can be heard, for an order pursuant to Rule 55.1 and 55.2 (b) of the Civil Rules of the Southern District of New York granting default judgment against defendants Bellevue Hospital and Manhattan Parking Systems, LLC.

Dated: New York, New York
August 11, 2008



Robert G. Ricco, Esq. X 5957
SEKAS & ASSOCIATES, LLC
Attorneys of the Plaintiff
515 Madison Avenue – 8th Floor
New York, NY 10022
(212) 695-7577

TO: Bellevue Hospital
462 First Avenue
New York, NY 10006

Manhattan Parking Systems, LLC
277 Park Avenue
New York, NY 10172

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
PATRICIA RAO,

Plaintiff,

08 Civ. 1922 (DAB)

- against -

**AFFIDAVIT IN SUPPORT
OF JUDGMENT BY DEFAULT**

BELLEVUE HOSPITAL, MANHATTAN PARKING
SYSTEMS, LLC, THE CITY OF NEW YORK, and
JOHN/JANE DOES 1-100, XYZ CORPORATIONS
1-100 and ABC ENTITIES 1-100,

Defendant.

-----x
ROBERT G. RICCO, being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and am associated with the firm of Sekas & Associates, L.L.C., attorneys for plaintiff in the above-entitled action and I am familiar with all the facts and circumstances in this action.

2. I make this affidavit pursuant to Rule 55.1 and 55.2(b) of the Civil Rules for the Southern District of New York, in support of plaintiff's application for the entry of a default judgment against defendant.

3. This is an action to recover damages owed by defendant to plaintiff for personal injuries caused by the negligence of defendant.

4. Jurisdiction of the subject matter of this action is based on diversity jurisdiction.

5. This action was commenced on February 26, 2008 by the filing of the summons and complaint. A copy of the summons and complaint was served on the defendant on March 14, 2008 by personal service on Bellevue Hospital, by personal service on Ursilyn Swindell, authorized agent on behalf of Defendant Bellevue Hospital (See attached "Exhibit 1") and proof of service by the

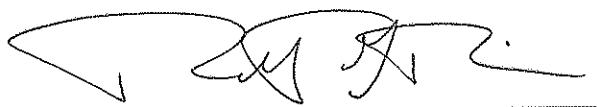
Special Process Server was filed. The defendant has not answered the complaint and the time for the defendant to answer the complaint has expired.

6. This action was commenced on February 26, 2008 by the filing of the summons and complaint. A copy of the summons and complaint was served on the defendant on March 14, 2008 by personal service on Manhattan Parking Systems, by personal service on the General Manager, an authorized agent on behalf of Defendant Manhattan Parking Systems (See attached "Exhibit 2"), and proof of service by the Special Process Server was filed. The defendant has not answered the complaint and the time for the defendant to answer the complaint has expired

7. This action seeks a default judgment or liability and a requested date for an inquest on damages

WHEREFORE, plaintiff requests the entry of Default and the entry of the annexed Judgment against defendant.

Dated: New York, New York
August 11, 2008



Robert G. Ricco, Esq.
SEKAS & ASSOCIATES, LLC
Attorneys of the Plaintiff
515 Madison Avenue – 8th Floor
New York, NY 10022
(212) 695-7577

Sworn to before me this 11th
day of August, 2008.

Notary Public

NICHOL
Notary
Commission #
2008277
New York
Commission F...

Exhibit 1



600535

U.S. DISTRICT COURT, SOUTHERN DIST.
NEW YORK

INDEX NO: 01922/08

FILE DATE:

ATTY: SEKAS & ASSOCIATES
530 SYLVAN AVENUE
ENGLEWOOD CLIFFS, NJ 07632

EPS No: 577932

Attorney File No:

Batch No: 0

PATRICIA RAO

Plaintiff(s)

- against -

BELLEVUE HOSPITAL, MANHATTAN PARKING SYSTEMS, LLC,
ET AL

Defendant(s)

STATE OF NEW YORK, COUNTY OF QUEENS: SS:

CHARLES F. MON BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION AND IS OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

That on 3/14/2008 at 2:34PM at 462 FIRST AVENUE, NEW YORK, NY 10016, deponent served the within SUMMONS & COMPLAINT IN A CIVIL ACTION on BELLEVUE HOSPITAL. At time of service the index number and date of filing were on the SUMMONS & COMPLAINT IN A CIVIL ACTION

CORPORATION

By delivering to and leaving with BELLEVUE HOSPITAL and that the deponent knew the person so served to be the GENERAL AGENT, URSILYN SWINDELL, AUTHORIZED TO ACCEPT ON BEHALF of the corporation.

A DESCRIPTION OF THE DEFENDANT OR OTHER PERSON SERVED ON BEHALF OF THE DEFENDANT IS AS FOLLOWS:

Approximate age: 50
Color of skin: BROWN

Approximate weight: 110
Color of hair: BLACK

Approximate height: 5'3"
Sex: F

Sworn to before me on 3/15/2008

LUIS A. CRESPO
Commissioner of Deeds
City of New York No. 4-4920
Certificate Filed in Queens County
Commission Expires Aug. 1, 2009

KEVIN T. MACTIERNAN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MA6108632
Qualified in Nassau County
Commission Expires 4/19/2008

ARTAK RAEVSKY
NOTARY PUBLIC-STATE OF NEW YORK
No. 01RA6123189
Qualified in Queens County
Commission Expires 2/28/2009

LORRE A. DUNNE
NOTARY PUBLIC-STATE OF NEW YORK
No. 01DU8016358
Qualified in Queens County
Commission Expires 11/16/2010

ELITE PROCESS SERVERS * 88-08 Little Neck Parkway, Floral Park, NY 11001

Service of Process:

1:08-cv-01922-DAB Rao v. Bellevue Hospital et al
ECF

U.S. District Court**United States District Court for the Southern District of New York****Notice of Electronic Filing**

The following transaction was entered by Sekas, Nicholas on 5/21/2008 at 12:34 PM EDT and filed on 5/21/2008

Case Name: Rao v. Bellevue Hospital et al
Case Number: 1:08-cv-1922
Filer: Patricia Rao
Document Number: 7

Docket Text:

AFFIDAVIT OF SERVICE. Service was accepted by Ursilyn Swindell. Document filed by Patricia Rao. (Sekas, Nicholas)

1:08-cv-1922 Notice has been electronically mailed to:

1:08-cv-1922 Notice has been delivered by other means to:

Nicholas G. Sekas
Sekas & Buzzetti, LLC
515 Madison Ave.
8th Floor
New York, NY 10022

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: n/a

Electronic document Stamp:

[STAMP_dcecfStamp_ID=1008691343 [Date=5/21/2008] [FileNumber=4608761-0
] [5fd7700feaaf43b3b43a4a8c19c7ea027c2cfabff3a6fa4b3f70beac2bbfe059cb
b08f0f0daa4ddb4dad705df2255ef709ff661aae5cb5e022b7fcab9675b50]]

Exhibit 2



600534

U.S. DISTRICT COURT, SOUTHERN DIST.
NEW YORK

INDEX NO: 01922/08

FILE DATE:

ATTY: SEKAS & ASSOCIATES
530 SYLVAN AVENUE
ENGLEWOOD CLIFFS, NJ 07632

EPS No: 577932

Attorney File No:

Batch No: 0

STATE OF NEW YORK: COUNTY OF NEW YORK

PATRICIA RAO

Plaintiff(s)

- against -

BELLEVUE HOSPITAL, MANHATTAN PARKING SYSTEMS, LLC,
ET AL

Defendant(s)

STATE OF NEW YORK, COUNTY OF QUEENS: SS:

CHARLES F. MON BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION AND IS OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

That on 3/14/2008 at 4:22PM at 277 PARK AVENUE, NEW YORK, NY 10172, deponent served the within SUMMONS & COMPLAINT IN A CIVIL ACTION on MANHATTAN PARKING SYSTEMS, LLC. At time of service the index number and date of filing were on the SUMMONS & COMPLAINT IN A CIVIL ACTION

CORPORATION

By delivering to and leaving with MANHATTAN PARKING SYSTEMS, LLC and that the deponent knew the person so served to be the GENERAL MANAGER, "JOHN DOE", AUTHORIZED TO ACCEPT ON BEHALF of the corporation.

A DESCRIPTION OF THE DEFENDANT OR OTHER PERSON SERVED ON BEHALF OF THE DEFENDANT IS AS FOLLOWS:

Approximate age: 47

Approximate weight: 170

Approximate height: 5'6"

Color of skin: BROWN

Color of hair: BLACK

Sex: M

Sworn to before me on 3/15/2008

3/15/2008

LUIS A. CRESPO
Commissioner of Deeds
City of New York No. 4-4920
Certificate Filed in Queens County
Commission Expires Aug. 1, 2009

KEVIN T. MACTIERNAN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MA6108632
Qualified in Nassau County
Commission Expires 4/19/2008

ARTAK RAEVSKY
NOTARY PUBLIC-STATE OF NEW YORK
No. 01RA6123189
Qualified in Queens County
Commission Expires 2/28/2009

LORRE A. DUNNE
NOTARY PUBLIC-STATE OF NEW YORK
No. 01DU8016358
Qualified in Queens County
Commission Expires 11/16/2010

Service of Process:

1:08-cv-01922-DAB Rao v. Bellevue Hospital et al
ECF

U.S. District Court**United States District Court for the Southern District of New York****Notice of Electronic Filing**

The following transaction was entered by Sekas, Nicholas on 5/21/2008 at 12:27 PM EDT and filed on 5/21/2008

Case Name: Rao v. Bellevue Hospital et al
Case Number: 1:08-cv-1922
Filer: Patricia Rao
Document Number: 6

Docket Text:

AFFIDAVIT OF SERVICE. Manhattan Parking Systems, LLC served on 3/14/2008, answer due 4/3/2008. Service was accepted by General Manager, "John Doe". Document filed by Patricia Rao. (Sekas, Nicholas)

1:08-cv-1922 Notice has been electronically mailed to:

1:08-cv-1922 Notice has been delivered by other means to:

Nicholas G. Sekas
Sekas & Buzzetti, LLC
515 Madison Ave.
8th Floor
New York, NY 10022

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: n/a

Electronic document Stamp:

[STAMP_dcecfStamp_ID=1008691343 [Date=5/21/2008] [FileNumber=4608720-0
] [a551cef9986bd3c8535a00c9b1385333449676c187f6bfa22f4248b59eb0f3f955
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
PATRICIA RAO,

Plaintiff,

08 Civ. 1922 (DAB)

- against -

DEFAULT JUDGMENT

BELLEVUE HOSPITAL, MANHATTAN PARKING
SYSTEMS, LLC, THE CITY OF NEW YORK, and
JOHN/JANE DOES 1-100, XYZ CORPORATIONS
1-100 and ABC ENTITIES 1-100,

Defendant.

-----x

This action having been commenced on February 26, 2008 by the filing of the Summons and Complaint, and a copy of the Summons and Complaint having been personally served on the defendant, Bellevue Hospital, on March 14, 2008 by personal service on Ursilyn Swindell, authorized agent on behalf of Defendant Bellevue Hospital (See attached "Exhibit 1"), and a proof of service having been filed on May 21, 2008 and the defendant not having answered the Complaint, and the time for answering the Complaint having expired, it is

ORDERED, ADJUDGED AND DECREED: That the plaintiff shall be heard at an inquest to determine the amount of judgment.

SO ORDERED:

Dated: New York, New York

U.S.D.J.

This document was entered on the docket
on _____.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
PATRICIA RAO,

Plaintiff,

08 Civ. 1922 (DAB)

- against -

DEFAULT JUDGMENT

BELLEVUE HOSPITAL, MANHATTAN PARKING
SYSTEMS, LLC, THE CITY OF NEW YORK, and
JOHN/JANE DOES 1-100, XYZ CORPORATIONS
1-100 and ABC ENTITIES 1-100,

Defendant.

-----x

This action having been commenced on February 26, 2008 by the filing of the Summons and Complaint, and a copy of the Summons and Complaint having been personally served on the defendant, Bellevue Hospital, on March 14, 2008 by personal service on the General Manager, an authorized agent on behalf of Defendant Manhattan Parking Systems (See attached "Exhibit 1"), and a proof of service having been filed on May 21, 2008 and the defendant not having answered the Complaint, and the time for answering the Complaint having expired, it is

ORDERED, ADJUDGED AND DECREED: That the plaintiff shall be heard at an inquest conference to determine the amount of judgment.

SO ORDERED:

Dated: New York, New York

U.S.D.J.

This document was entered on the docket
on _____.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
PATRICIA RAO,

Plaintiff,

- against -

CIVIL ACTION

08 Civ. 1922 (DAB)

BELLEVUE HOSPITAL, MANHATTAN PARKING
SYSTEMS, LLC, THE CITY OF NEW YORK, and
JOHN/JANE DOES 1-100, XYZ CORPORATIONS
1-100 and ABC ENTITIES 1-100,

Defendant.

-----x

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION FOR
DEFAULT JUDGMENT**

ROBERT G. RICCO, ESQ. (RR-5457)
OF COUNSEL

MEMORANDUM OF LAW

This application for default is made pursuant to the local Rules for the Southern District, which are quoted in relevant part:

Local Civil Rule 55.1. Certificate of Default

A party applying for a certificate of default by the clerk pursuant to Federal Rule of Civil Procedure 55(a) shall submit an affidavit showing (1) that the party against whom a notation of default is sought is not an infant, in the military, or an incompetent person; (2) that the party has failed to plead or otherwise defend the action; and (3) that the pleading to which no response has been made was properly served.

Local Civil Rule 55.2. Default Judgment

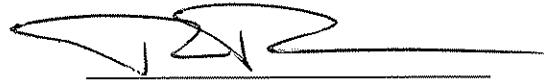
(a) **By the Clerk.** Upon issuance of a clerk's certificate of default, if the claim to which no response has been made only sought payment of a sum certain, and does not include a request for attorney's fees or other substantive relief, and if a default judgment is sought against all remaining parties to the action, the moving party may request the clerk to enter a default judgment, by submitting an affidavit showing the principal amount due and owing, not exceeding the amount sought in the claim to which no response has been made, plus interest, if any, computed by the party, with credit for all payments received to date clearly set forth, and costs, if any, pursuant to 28 U.S.C. § 1920.

(b) **By the Court.** In all other cases the party seeking a judgment by default shall apply to the court as described in Federal Rule of Civil Procedure 55(b)(2), and shall append to the application (1) the clerk's certificate of default, (2) a copy of the

claim to which no response has been made, and (3) a proposed form of default judgment.

Further, we make this motion for default pursuant to the Court Order dated July 11, 2008 of the Honorable Deborah A. Batts, United States Court District Judge, attached hereto as Exhibit "A"

Respectfully yours,



By: Robert G. Ricco, Esq. (RR-5457)
SEKAS & ASSOCIATES, LLC
515 Madison Avenue – 8th Floor
New York, NY 10022
Phone: (212)695-7577
Attorneys for the Plaintiff

Dated: August 11, 2008

TO: Bellevue Hospital
462 First Avenue
New York, NY 1006

Manhattan Parking Systems, LLC
277 Park Avenue
New York, NY 10172

Exhibit A

United States District Court
Southern District of New York

-----X
PATRICIA RAO,

Plaintiff,

-against-

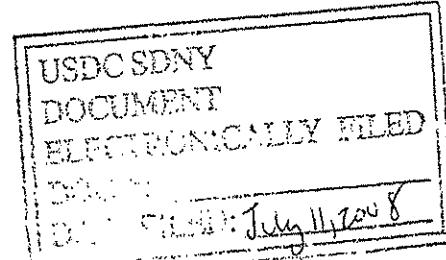
CITY OF NEW YORK, BELLVUE HOSPITAL,
MANHATTAN PARKING SYSTEMS, LLC,
JOHN AND JANE DOES 1-100, XYZ
CORPORATIONS 1-100, and ABC ENTITIES
1-100,

Defendants.

-----X
DEBORAH A. BATTS, United States District Judge.

The Court's Records indicate that the Complaint in this Action was filed on February 26, 2008. The records further indicate that Defendant Manhattan Parking Systems was served on March 14, 2008. To date Manhattan Parking Systems has neither Answered nor appeared in this action in any way. In addition, records indicate that Defendant Bellvue Hospital was served with the Complaint on March 14, 2008. To date Bellvue Hospital has neither Answered nor appeared in this action in any way.

Accordingly, Plaintiff is hereby ORDERED TO SHOW CAUSE why her Complaint against Defendants Manhattan Parking Systems and Bellvue Hospital should not be dismissed for failure to prosecute. See Lyell Theatre Corp. v. Loews Corp., 682 F.2d 37, 42 (2d Cir. 1982) (holding that a district court's authority to dismiss an action for plaintiff's failure to prosecute "cannot seriously be doubted").



08 Civ. 1922 (DAB)
ORDER

If Plaintiff fails by August 11, 2008 to either (1) show cause, or (2) move for default judgment against Defendants Bellvue Hospital and Manhattan Parking Systems, Plaintiff's cause of action against those Defendants SHALL BE DISMISSED for failure to prosecute. Plaintiff's showing of good cause, if any, SHALL BE MADE by affidavit.

Further, the Court's practice is to have the issues joined as to all parties prior to scheduling a conference pursuant to Rule 16 of the Federal Rules of Civil Procedure. On or prior to August 11, 2008, Plaintiff SHALL in writing inform the Court of what efforts she is making to identify Defendants John and Jane Does 1-100, XYZ Corporations 1-100, and ABC Entities 1-100.

SO ORDERED.

Dated: New York, New York
July 11, 2008



Deborah A. Batts
United States District Judge